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Attorneys for Plaintiff,  
SIERRA PACIFIC RESOURCES AND  
NEVADA POWER COMPANY

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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

SIERRA PACIFIC RESOURCES AND )  
NEVADA POWER COMPANY, )  
Plaintiffs, )

vs. )

EL PASO CORPORATION, et al., )  
Defendants )

Case No.: CV-S-03-0414-JCM-RJJ

**NOTICE OF FILING OF A  
PROPOSED ORDER**

1 Pursuant to the Court's direction at the hearing held on May 1, 2008, Plaintiff  
2 Nevada Power submits the attached proposed order to which Nevada Power and the  
3 Sempra entities have agreed.  
4

5 By /s/ Gregory C. Cook  
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27 Attorneys for Plaintiff,  
28 NEVADA POWER COMPANY

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the NEVADA POWER COMPANY'S NOTICE OF FILING OF A PROPOSED ORDER has been served upon the following by electronic CM/ECF filing or first-class U.S. mail, on this the 16<sup>th</sup> day of May, 2008:

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12  
13 DATED this 16<sup>th</sup> day of May, 2008.

14  
15 /s/ Gregory C. Cook  
Of Counsel  
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**SIERRA PACIFIC RESOURCES AND**  
**NEVADA POWER COMPANY**

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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

SIERRA PACIFIC RESOURCES and )  
 NEVADA POWER COMPANY, )  
 )  
 Plaintiffs, )

Case No.: CV-S-03-0414-JCM-RJJ

**ORDER**

vs. )

EL PASO CORPORATION; EL PASO )  
 NATURAL GAS COMPANY; EL PASO )  
 MERCHANT ENERGY, L.P.; EL PASO )  
 MERCHANT ENERGY COMPANY, a )  
 division of El Paso Corporation; EL PASO )  
 TENNESSEE PIPELINE COMPANY; EL )  
 PASO MERCHANT ENERGY-GAS )  
 COMPANY; SEMPRA ENERGY; )  
 SOUTHERN CALIFORNIA GAS COMPANY; )  
 SAN DIEGO GAS AND ELECTRIC; )  
 SEMPRA ENERGY TRADING )  
 CORPORATION; ENERGY MARKETING )  
 AND TRADE; RELIANT ENERGY )  
 SERVICES and DOES 1-100 )

Defendants.

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On May 1, 2008, the following motions to dismiss the Second Amended Complaint ("SAC" or "Complaint") came on for hearing before this Court: Defendants Sempra Energy's, Southern California Gas Company's and San Diego Gas & Electric Company's Motion to Dismiss Plaintiff's Second Amended Complaint for Lack of Personal Jurisdiction (#190); Defendants Sempra Energy's, Southern California Gas Company's and San Diego Gas & Electric Company's Motion to Dismiss Plaintiff's Second Amended Complaint as Barred by Res Judicata (#188); and Defendant Sempra Energy Trading Corporation's Joinder in Various Defendants' Motions to Dismiss (#194, #195 and #198).

The parties were represented at the hearing by the following counsel: Ed R. Haden, Gregory C. Cook, Peter J. McNulty, and Jonathan Waller for the Plaintiff, Nevada Power Company; Richard P. Levy, James P. Fogelman and J. Randall Jones for Defendants Sempra Energy, Southern California Gas Company and San Diego Gas & Electric Company; William R. Urga for Defendant Sempra Energy Trading LLC (formerly known as Sempra Energy Trading Corp.); Todd Kennedy for Defendant Dynegy Marketing and Trade; James Whitmire for Defendants El Paso Corporation, El Paso Natural Gas Company, El Paso Merchant Energy, L.P., El Paso Merchant Energy Company, El Paso Tennessee Pipeline Company, and El Paso Merchant Energy-Gas Company.

The Court having heard the arguments of counsel and having received and reviewed the motions, all oppositions and replies relating to the motions, and all submissions of supplemental authorities, and with good cause appearing and no cause for delay,


IT IS ORDERED, ADJUDGED AND DECREED that:

A. Defendants Sempra Energy's, Southern California Gas Company's and San Diego Gas & Electric Company's Motion to Dismiss Plaintiff's Second Amended

1 Complaint for Lack of Personal Jurisdiction (#190) is **DENIED**. See *Action Embroidery*  
2 *Corp. v. Atlantic Embroidery, Inc.*, 368 F.3d 1174 (9th Cir. 2004).

3 B. Defendants Sempra Energy's, Southern California Gas Company's and San  
4 Diego Gas & Electric Company's Motion to Dismiss Plaintiff's Second Amended  
5 Complaint as Barred by Res Judicata (#188), joined by Sempra Energy Trading LLC  
6 (formerly known as Sempra Energy Trading Corp.), is **DENIED** without prejudice so that  
7 the Court can revisit these issues on summary judgment in light of *Epstein v. MCA, Inc.*,  
8 179 F.3d 641 (9th Cir.), *cert. denied*, 528 U.S. 1004, 120 S. Ct. 497 (1999).  
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11 Dated: June 3, 2008.

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15 James C. Mahan, U.S. District Judge  
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17 Submitted by:  
18 BALCH & BINGHAM LLP and  
19 MCNULTY LAW FIRM

20  
21 By: /s/ Gregory C. Cook  
22 J. Russell Campbell  
23 Gregory C. Cook  
24 Ed R. Haden  
Matthew F. Carroll  
Peter J. McNulty  
Jonathan Waller

25 Attorneys for Plaintiff  
26 Nevada Power Company  
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